

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,	:	
	:	
- against -	:	No. 18-cr-681 (S-1) (WFK)
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JEAN BOUSTANI, <u>et al.</u> ,	:	ECF Case
Defendants.	:	Dated: October 8, 2019
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	:	
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**DEFENDANT JEAN BOUSTANI'S
PROPOSED EXAMINATION OF JURORS**

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Attorneys for Defendant Jean Boustani

Defendant Jean Boustani respectfully requests that the Court include the following questions in its examination of prospective jurors pursuant to Rule 24(a) of the Federal Rules of Criminal Procedure.

I. INTRODUCTION

Mr. Boustani respectfully requests that the Court give its standard introduction.

II. OATH

Mr. Boustani respectfully requests that the Court issue its standard oath.

III. OUTLINE OF THE CASE

1. This is a criminal case. The charges against the defendant, Jean Boustani, were originally set forth in what is called an indictment. The Indictment is not evidence. It simply contains the charges in this case, which are only allegations. The Government is required to prove the charges against Mr. Boustani beyond a reasonable doubt. Mr. Boustani has pleaded not guilty, and he is presumed innocent.

2. Mr. Boustani is a salesperson for a shipbuilding company called Privinvest, which is headquartered in the Middle East. In 2013 and 2014, Privinvest, with Mr. Boustani acting as a salesperson, sold ships and other related equipment to three companies that were owned by the Republic of Mozambique. Those Mozambican companies took out loans from banks to pay for the ships and other equipment. The banks then sold the loans to various investors, some of whom are alleged to have been based in the United States. In Count One, the Government alleges that from approximately January 2011 through December 2018, Mr. Boustani conspired—that is, agreed—to engage in a wire fraud scheme to defraud, out of money or property, certain investors that (a) purchased portions of debt that had been incurred by a Mozambican state-owned company called Proindicus; (b) purchased portions of debt that had

been incurred by another Mozambican state-owned company called Mozambique Asset Management, or “MAM”; (c) purchased notes that were created out of debt that had been incurred by a third Mozambican-state owned company called Empresa Moçambicana de Atum or “EMATUM;” and (d) exchanged those notes, in 2016, for a security called a Eurobond.

3. Count Two alleges that from approximately January 2013 through December 2018, Mr. Boustani conspired—that is, agreed—to engage in a securities fraud in connection with investors’ purchase of the notes that were created out of debt that had been incurred EMATUM and the investors’ exchange of those notes, in 2016, for Eurobonds.

4. Count Three does not involve Mr. Boustani so I will not summarize that charge for you.

5. Count Four alleges that from January 2013 through December 2018, Mr. Boustani is alleged to have conspired—that is, agreed—to engage in a money laundering conspiracy. Mr. Boustani has pleaded not guilty to all three counts.

6. Does any juror have any personal knowledge of this case? Has any juror read or heard anything about this case? If so, is there anything you have read or heard that may affect your ability to be fair and impartial?

IV. FOR CAUSE EXAM

QUESTIONS RELATING TO THE PARTIES

1. This action is being prosecuted by the U.S. Department of Justice, which will be represented in this case by Assistant United States Attorneys [name the attorneys present at counsel table]. I will ask them to please stand briefly and face the jurors.

2. Defendant Mr. Boustani is represented by Michael Schachter, Randall Jackson, Casey Donnelly and Philip DiSanto of the law firm of Willkie Farr & Gallagher as well as

Daniel Gitner of the law firm Lankler Siffert Wohl. I will ask them to please stand briefly and face the jurors.

3. Do any of you know, know about, or have you had any dealings, personal or business, with any of these parties, entities, or their counsel?

4. Do any of you know, know about, or have you had any dealings, personal or business, with relatives or associates of these parties, entities, or their attorneys?

QUESTIONS RELATING TO WITNESSES

Mr. Boustani respectfully requests that the Court offer its standard remarks on the list of names and places.

1. Do any of you know, know about, or have you had any personal or business dealings with any of the named individuals?

2. Do any of you know, know about, or have you had any personal or business dealings with any relatives or associates of the named individuals?

3. Do you know or are you familiar with any of the entities mentioned?

4. Would answering “yes” to the above three questions affect your ability to render a fair and impartial verdict in this case?

QUESTIONS RELATING TO THE NATURE OF THE CASE

1. Because this is a criminal case, the Government has the burden of proving its case beyond a reasonable doubt. The burden never shifts to the defendant. He is presumed innocent and cannot be convicted unless and until the jury decides that his guilt has been proved beyond a reasonable doubt. Would any of you be unable to follow this rule about innocent until proven guilty and proof beyond a reasonable doubt?

2. The defendant is not obligated to offer any evidence or to testify on his own behalf. It is the Government's burden to prove a defendant's guilt beyond a reasonable doubt. A jury may not attach any significance to the fact that a defendant did not testify and may not draw an inference of guilt from a defendant's exercise of his constitutional right to remain silent. Will you be able to follow this rule of law?

3. Do you, or any members of your family or close friends, work for: (1) any federal or state law enforcement agency, including the FBI or the U.S. Department of Justice; or (2) any other federal or state government agency or body? Do you have any opinions as a result of this employment that would impair your ability to be fair and impartial to both sides in this case?

4. At this point in time, do you have an opinion about whether the defendant is guilty of the crime charged?

5. Does the fact that the Government has filed charges against the defendant make you feel that he must have done something wrong or else he wouldn't have been charged?

6. Would you attach greater weight to the testimony of a witness just because that witness was called by the Government?

7. Mr. Boustani is Lebanese and he is from the Middle East. Do you have any strongly held opinions or feelings about people from the Middle East or from Lebanon more specifically? As a result, would you be unable to render a fair and impartial verdict?

8. Do you have any opinion about the federal wire fraud, securities fraud or money laundering laws that might prevent you from being fair and impartial in this case? As a result, would you be unable to render a fair and impartial verdict?

9. Do you have any opinion about the government that might prevent you from being fair and impartial in this case?

10. As a potential juror in this case, you must avoid reading, viewing, or listening to any and all media coverage of this case in any form. I will instruct you that you may not read any magazine, newspaper, or article about this case, Google this case (or any of the parties or attorneys), or communicate about this case outside of the courtroom. Do you have any reservations or concerns about your ability or willingness to follow this instruction?

11. Would you *not* be able to set aside your personal opinions or views and assess this case and render a verdict based solely on the evidence presented in Court, and in accordance with the law as I explain it?

GENERAL QUESTIONS

1. Do you have any physical or personal problems that would absolutely prevent you from serving in this case?

2. Do you have any difficulty in understanding or reading the English language?

3. Do you have any problem, such as with your sight or hearing, that could affect your perception of the proceedings?

4. Are you taking any medications that would prevent you from giving your full attention to all of the evidence at trial?

5. This trial is expected to last approximately five or six weeks. Would any of you be unable to serve as a juror for that length of time?

6. Under the law, the facts of this case are for the jury to determine and the law is for the Court to determine. The two areas are separate and distinct. At the end of the case, as I mentioned, I will instruct the jury on the law, through what are called “jury charges,” and you, the jurors, are required to accept the law and apply it as it is explained to you. It will be your job to determine the facts and assess them under my explanation of the law. Do you feel that you

would not be able to apply the law as I explain it? If, for any reason, you disagree with the law as I explain it, do any of you feel that you would not be able to apply the relevant law?

V. PEREMPTORY CHALLENGE EXAM

Defendant respectfully requests the Court to issue its standard remarks on the peremptory challenge exam.

PEREMPTORY CHALLENGE QUESTIONS

1. Have you ever sat as a juror before in any type of case? If so, please state whether the case was in state or federal court, whether it was a civil or criminal matter, and, without stating what your verdict was, whether a verdict was reached.
2. If you have served on a jury that reached a verdict, did you feel that it reached the wrong result? If so, please explain.
3. Have you ever served as a grand juror?
4. Have you, or any of your family or close friends, appeared as a witness at either a deposition, trial, or a grand jury investigation? If so, what was the case about?
5. Have you ever been a witness or a complainant in any federal or state prosecution?

If you answer yes to any of questions 1 to 5 above, is there something about that experience that would prevent you from acting as a fair and impartial juror in this case?

6. What is your county of residence?
7. What level of school did you reach?
8. What is your occupation and title, and how long have you been at your current position? If retired, what did you do before?
9. Are there other members of your household?
10. What is their occupation? If retired, what did they do before?

11. Is there anything in your personal history or life experience – whether I have asked specifically about it or not – that would affect your ability to render a fair and impartial verdict in this case?

Dated: New York, New York
October 8, 2019

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